

Private foundations; fees to consultants. Payments to consultants by a private foundation for personal services performed in the development of model curricula and design of educational materials to aid the foundation in its program activity of assisting educators to employ improved educational methods are not grants within the meaning of section 4945(d)(3) of the Code.

Advice has been requested whether payments made to individuals by a private foundation under the circumstances described below constitute grants within the meaning of section 4945(d)(3) of the Internal Revenue Code of 1954.

The foundation's activities include disseminating publications and developing and conducting training programs to assist educators in employing improved educational methods. In the course of carrying out its activities, the foundation obtains the services of consultants. The services include the development of model curricula in a particular educational area and the design of materials to assist educators in the performance of their educational functions.

Section 4945(d)(3) of the Code provides in pertinent part that the term 'taxable expenditure' means any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or other similar purposes by such individual.

Section 53.4945-4(a)(2) of the Foundation Excise Tax Regulations provides that 'grants' do not ordinarily include payments (including salaries, consultants' fees, and reimbursement for travel expenses such as transportation, board, and lodging) to persons (regardless of whether such persons are individuals) for personal services in assisting a foundation in planning, evaluating, or developing projects or areas of program activity by consulting, advising, or participating in conferences organized by the foundation.

The development of model curricula and design of educational materials by the consultants for the foundation constitute personal services. These services assist the foundation in planning and developing its program activity of assisting educators to employ improved educational methods.

Accordingly, the payments made to the individuals under the circumstances described do not constitute grants within the meaning of the applicable regulations and therefore are not taxable expenditures within the meaning of section 4945(d)(3) of the Code.